

The Texas Senate

DEC 14

RQ-6412

JOHN T. MONTFORD
MEMBER, TEXAS SENATE
TWENTY-EIGHTH DISTRICT

CHAIRMAN:
FINANCE COMMITTEE

MEMBER:
ADMINISTRATION COMMITTEE
EDUCATION COMMITTEE
NATURAL RESOURCES COMMITTEE
LEGISLATIVE BUDGET BOARD
LEGISLATIVE AUDIT COMMITTEE
TRANSPORTATION AUDIT COMMITTEE

P.O. BOX 12068
AUSTIN, TEXAS 78711
512/463-0128
FAX: 512/463-0326
TDD: 512/475-3758

December 13, 1993

P.O. BOX 1709
LUBBOCK, TEXAS 79408
806/747-0467
FAX: 806/763-5574

FILE #

The Honorable Dan Morales
Attorney General
State of Texas
P. O. Box 12548
Austin, Texas 78711-2548

I.D.#

FILE #

I.D.#

MBJ

ML-23640-93

23640

1-6-94

Dear General Morales:

Much attention has been brewing on the issue of casino gambling in Texas. I believe, and many agree with me, that any statutory authorization of casino-style gambling would require a constitutional amendment before such measures could be enacted, particularly with regard to slot machines. Therefore, I am requesting an Attorney General's opinion on this matter.

It is my understanding that a slot machine is a machine that runs electronically or mechanically and contains slots into which the player deposits money in the form of currency coins, tokens, or a magnetic card, on the chance of receiving some amount of money greater than that deposited. After depositing the coin, token, or card, the player activates the machine. The machine may then dispense nothing or it may dispense an amount of money greater than, equal to or less than that deposited for the player to take as winnings. Whether the player wins or not depends entirely on chance and is not affected by any skill, judgment, or knowledge of the player. If the machine does not pay anything, the amount deposited will remain in the machine. The machine is constructed so that all money deposited into the machine is not dispensed to winning players but some portion of it remains in the machine for the benefit of the owner, operator, or keeper of the machine.

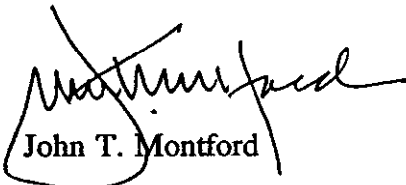
Article 3, Section 47 of the Texas Constitution prohibits the Legislature from authorizing "lotteries" unless the lottery is operated by or on behalf of the state. The Texas courts have held that slot machines are "lotteries," and the unique characteristics of a slot machine meets the common law definition of "lottery" as a game entailing consideration, chance, and a prize. Therefore, it appears to me that the Legislature may not authorize the operation of slot machines by non-state entities without an amendment to the Texas Constitution.

The Honorable Dan Morales
December 13, 1993
Page 2

In summary, I am requesting an Attorney General's opinion as to whether the Texas Legislature may authorize the operation of slot machines without an amendment to the Texas Constitution.

Your assistance on this matter will be greatly appreciated.

Yours very truly,



John T. Montford

JTM/bl